

Statewide Assessment

Home and Community Based Settings

Governing Regulations-Assisted Living Residences

Section of the Rule	Type of Setting	Issue	Oppose/Silent/ Positive	# of sites	Remedial Strategy	Lead Agency	Target Date	Ongoing Monitoring
(a) The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint	Assisted Living Residences	<p><u>Assisted Living Residences law requires that:</u></p> <p>Philosophy of care</p> <p>§44-101.02.</p> <p>(a) The philosophy of assisted living emphasizes personal dignity, autonomy, independence, privacy, and freedom of choice. Further, the services and physical environment of an assisted living residence should enhance a person's ability to age in place in a homelike setting by increasing or decreasing the amount of assistance in accordance with the individual's changing needs.</p> <p>Self- Determination, Choice, Independence, Participation , and Privacy</p> <p>§44-105.02</p> <p>a) A resident shall have the right to be treated at all times as follows:</p> <p>(1) Courteously;</p> <p>(2) Respectfully;</p> <p>(3) With full recognition of</p>	Positive	All - 14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		personal dignity and individuality; (4) With assurance of privacy and the opportunity to act autonomously and share in the responsibility for decisions.						
b. The setting optimizes individual initiative, autonomy, and independence in making life choices	Assisted Living Residence	<p><u>Assisted Living Residences law requires that:</u></p> <p>Philosophy of care</p> <p>§44-101.02.</p> <p>(a) The philosophy of assisted living emphasizes personal dignity, autonomy, independence, privacy, and freedom of choice. Further, the services and physical environment of an assisted living residence should enhance a person's ability to age in place in a homelike setting by increasing or decreasing the amount of assistance in accordance with the individual's changing needs.</p> <p>Self- Determination, Choice, Independence, Participation , and Privacy</p> <p>§44-105.02</p> <p>A resident of an ALR shall have the right to live in an environment that:</p> <p>(1) Maintains and enhances the resident's dignity, independence, and respect in full recognition of his or her individuality and physical and mental capabilities;</p> <p>(2) Is creatively designed to counter loneliness, depression, dependence, boredom, and designed to manage difficult behavior;</p> <p>(3) Provides opportunities for socialization, social interaction, leisure</p>	Positive	All - 14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>activities, and spiritual and religious activities consistent with the preferences and background of the resident; and</p> <p>(4) Facilitates participation by arranging for transportation and assisting with communication and social skills and other services.</p> <p>Dignity</p> <p>§44-105.03</p> <p>A resident shall have the right to the following:</p> <p>(1) A safe, clean, comfortable, stimulating, and homelike environment allowing the resident to use personal belongings to the greatest extent possible;</p> <p>(2) Control time, space, and lifestyle;</p> <p>(3) Free access to visitors of his or her choice;</p> <p>(4) To receive and send correspondence without any restrictions;</p> <p>(5) To maintain personal possessions to the extent the health, safety, and well-being of others is not disturbed;</p> <p>(6) To remain in his or her living unit unless a change corresponds to the uncoerced preference of the resident or conforms to the obligations set forth in the resident's contract respecting discharge and is related to the resident's preference or to transfer conditions stipulated in his or her contract with the ALR;</p> <p>(7) To approve his or her roommate whenever possible, if the resident is</p>						
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		<p>living in a semi- private unit;</p> <p>(8) To attend or not attend religious services of his or her choice;</p> <p>(9) To choose activities and schedules consistent with his or her interests, and physical, mental, and psychosocial well-being;</p> <p>(10) To interact with members of the community inside and outside the facility and make choices about aspects of his or her life in the facility that are significant to the resident;</p> <p>(11) To be free from mental, verbal, emotional, sexual and physical abuse, neglect, involuntary seclusion, and exploitation; and</p> <p>(12) To participate in the development, implementation, and review of plans designed to provide services to residents, including the Individualized Service Plan.</p>						
c. The setting facilitates individual choice regarding services and supports, and who provides them	Assisted Living Residence	<p><u>Assisted Living Residences law requires that:</u></p> <p>Philosophy of care</p> <p>§44-101.02.</p> <p>(a) The philosophy of assisted living emphasizes personal dignity, autonomy, independence, privacy, and freedom of choice. Further, the services and physical environment of an assisted living residence should enhance a person's ability to age in place in a homelike setting by increasing or decreasing the amount of assistance in accordance with the individual's changing needs.</p> <p>Accommodation of Needs</p>	Positive	All - 14	<i>There will be a stipulation in the newly developed regulation added that requires all Assisted Living Residences participating in the waiver program to comply with established Home and Community Based Waiver Services rules. [Under discussion.]</i>	DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>§44-105.04</p> <p>A resident shall have the right to the following:</p> <p>(1) To receive adequate and appropriate services and treatment with reasonable accommodation of individual needs and preferences consistent with their health and physical and mental capabilities and the health or safety of other residents;</p> <p>(2) To have access to appropriate health and social services, including social work, home health, nursing, rehabilitative, hospice, medical, dental, dietary, counseling, and psychiatric services in order to attain or maintain the highest practicable physical, mental and psychosocial well-being;</p> <p>(3) To remain in the current setting, forgoing a recommended transfer to obtain additional services as contracted for by the resident or secure additional services in a manner acceptable to the ALR;</p> <p>(4) To engage in a shared responsibility agreement with the ALR which is acceptable to the resident and the ALR and does not violate any applicable law;</p> <p>(5) To refuse to participate in any service once the potential consequences of such participation have been explained and a shared responsibility agreement has been reached, if necessary, between the resident, the surrogate, and the ALR;</p> <p>(6) To be free of physical restraints at all times; and</p> <p>(7) To be free of chemical restraints.</p>						
d. The setting provides	Assisted	Assisted Living Residences law does	Silent	All -14	Although the residents of an	DOH	FY18	ICFD surveyors

<p>opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</p>	<p>Living Residence</p>	<p>not specifically address this provision.</p>			<p>assisted living, through their resident agreements, have control of their personal resources and community engagement, the law does not specifically address this requirement.</p> <p>Typically, assisted living residences in the District of Columbia provide services to the elderly and retirees. There are plans to draft Assisted Living Residence regulations. This requirement will be recommended to be included as a standard to address this requirement.</p> <p><i>If this new regulation is not approved overall, there will be a stipulation in the regulation added that requires all Assisted Living Residences participating in the waiver program to comply with established Home and Community Based Waiver Services rules. [Under discussion.]</i></p>			<p>monitor periodically and survey annually to ensure license compliance</p>
<p>e. The setting is integrated and supports access to the greater community</p>	<p>Assisted Living Residence</p>	<p><u>Assisted Living Residences law requires that:</u></p> <p>Self- Determination, Choice, Independence, Participation , and Privacy</p> <p>§44-105.02</p> <p>(b) A resident of an ALR shall have the right to live in an environment that:</p> <p>(1) Maintains and enhances the resident's dignity, independence, and respect in full recognition of his or her individuality and physical and mental capabilities;</p> <p>(2) Is creatively designed to counter loneliness, depression, dependence, boredom, and designed to manage difficult behavior;</p>	<p>Positive</p>	<p>All -14</p>		<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>

		<p>(3) Provides opportunities for socialization, social interaction, leisure activities, and spiritual and religious activities consistent with the preferences and background of the resident; and</p> <p>(4) Facilitates participation by arranging for transportation and assisting with communication and social skills and other services.</p> <p>Dignity</p> <p>§44-105.03</p> <p>A resident shall have the right to the following:</p> <p>(1) A safe, clean, comfortable, stimulating, and homelike environment allowing the resident to use personal belongings to the greatest extent possible;</p> <p>(2) Control time, space, and lifestyle;</p> <p>(3) Free access to visitors of his or her choice;</p> <p>(4) To receive and send correspondence without any restrictions;</p> <p>(8) To attend or not attend religious services of his or her choice;</p> <p>(9) To choose activities and schedules consistent with his or her interests, and physical, mental, and psychosocial well-being;</p> <p>(10) To interact with members of the community inside and outside the facility and make choices about aspects of his or her life in the facility that are significant to the resident;</p>						
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<p>f. The setting provides opportunities to engage in community life</p>	<p>Assisted Living Residence</p>	<p><u>Assisted Living Residences law requires that:</u></p> <p>Self- Determination, Choice, Independence, Participation , and Privacy</p> <p>§ 44-105.02</p> <p>A resident of an ALR shall have the right to live in an environment that:</p> <p>(1) Maintains and enhances the resident's dignity, independence, and respect in full recognition of his or her individuality and physical and mental capabilities;</p> <p>(2) Is creatively designed to counter loneliness, depression, dependence, boredom, and designed to manage difficult behavior;</p> <p>(3) Provides opportunities for socialization, social interaction, leisure activities, and spiritual and religious activities consistent with the preferences and background of the resident; and</p> <p>(4) Facilitates participation by arranging for transportation and assisting with communication and social skills and other services.</p> <p>Dignity</p> <p>§44-105.03</p> <p>A resident shall have the right to the following:</p> <p>A safe, clean, comfortable, stimulating, and homelike environment allowing the resident to use personal belongings to the greatest extent possible;</p>	<p>Positive</p>	<p>All -14</p>	<p>The new regulations drafted will incorporate a provision that food must be accessible to residents at all times.</p> <p><i>If this new regulation is not approved overall, there will be a stipulation in the regulation added that requires all Assisted Living Residences participating in the waiver program to comply with established Home and Community Based Waiver Services rules. [Under discussion.]</i></p>	<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>
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		<p>(2) Control time, space, and lifestyle;</p> <p>(3) Free access to visitors of his or her choice;</p> <p>(4) To receive and send correspondence without any restrictions;</p> <p>(8) To attend or not attend religious services of his or her choice;</p> <p>(9) To choose activities and schedules consistent with his or her interests, and physical, mental, and psychosocial well-being;</p> <p>(10) To interact with members of the community inside and outside the facility and make choices about aspects of his or her life in the facility that are significant to the resident;</p>						
g. the setting provides opportunities to control personal resources	Assisted Living Residence	<p><u>Assisted Living Residences law requires that</u></p> <p>Philosophy of care</p> <p>§44-101.02.</p> <p>(a) The philosophy of assisted living emphasizes personal dignity, autonomy, independence, privacy, and freedom of choice. Further, the services and physical environment of an assisted living residence should enhance a person's ability to age in place in a homelike setting by increasing or decreasing the amount of assistance in accordance with the individual's changing needs.</p> <p>Dignity</p> <p>§44-105.03</p> <p>A resident shall have the right to the following:</p>		All -14	<p><u>Clarification Note:</u> Each resident is individually assessed to determine the level of supports needed. The financial agreement is drafted specifically to address the personal needs and desires of the identified resident based their input and/or of their designee.</p>	DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>(5) To maintain personal possessions to the extent the health, safety, and well-being of others is not disturbed</p> <p>Financial agreements</p> <p>§ 44-106.03.</p> <p>a) The written resident agreement include financial provisions which indicate the following: (1) The obligations of the ALR, the resident, or the resident's surrogate as to performance of the following: (A) The handling of the finances of the resident; (B) The purchasing or renting of essential or desired equipment and supplies; (C) The coordinating and contracting for services not covered by the resident agreement; and (D) The purchasing of medications and durable medical equipment; (2) Separate and accurate records of all funds and personal property deposited with or managed by the ALR for the benefit of a resident which include a receipt stating the date, amount, and purpose of any transaction and the current balance</p>						
<p>h. The setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS</p>	<p>Assisted Living Residence</p>	<p><u>Assisted Living Residences law requires that</u></p> <p>Accommodation of needs.</p> <p>§ 44-105.04.</p> <p>A resident shall have the right to the following:</p> <p>(1) To receive adequate and appropriate services and treatment with reasonable accommodation of individual needs and preferences consistent with their health and physical and mental capabilities and the health or safety of other residents;</p>	<p>Positive</p>	<p>All -14</p>		<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>

		<p>(2) To have access to appropriate health and social services, including social work, home health, nursing, rehabilitative, hospice, medical, dental, dietary, counseling, and psychiatric services in order to attain or maintain the highest practicable physical, mental and psychosocial well-being;</p> <p>(3) To remain in the current setting, forgoing a recommended transfer to obtain additional services as contracted for by the resident or secure additional services in a manner acceptable to the ALR;</p>						
i. The setting is selected by the individual from among other options including non-disability specific settings and a private unit in a residential setting	Assisted Living Residence	<u>Assisted Living Residences law does not address this requirement.</u>	Silent	All -14	DOH is not responsible for placement services. DOH's regulatory oversight in this domain occurs after placement.	DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance
j. If provider-owned or controlled, the setting provides a specific unit/dwelling that is owned, rented, or occupied under a legally enforceable agreement.	Assisted Living Residence	<p><u>Assisted Living Residences law states that:</u></p> <p>Resident agreements.</p> <p>§ 44-106.02.</p> <p>(a) A written contract must be provided to the resident prior to admission and signed by the resident or surrogate, if necessary, and a representative of the ALR. The nonfinancial portions of the contract shall include the following:</p> <p>Unit assignment and procedures if changes occur</p>	Positive	All-14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

<p>k. If provider –owned or controlled, the setting provides the same responsibilities/protectio ns from eviction as all tenants under landlord tenant law of state, county, city or other designated entity</p>	<p>Assisted Living Residence</p>	<p><u>Assisted Living Residences law requires:</u></p> <p>§ 44-106.08. Discharge and transfer. (a) When a resident wishes to be discharged from an ALR, the resident or surrogate shall give 30 day written notice to the ALR.</p> <p>(b) When a sudden, unexpected, and life-threatening medical emergency arises necessitating the immediate transfer of the resident to an acute care facility, the ALR shall immediately notify the surrogate and the resident's healthcare provider of the transfer. The ALR shall provide the surrogate and healthcare provider with information concerning cause of the transfer and the name and location of the acute care facility.</p> <p>(c) After a resident is transferred pursuant to subsection (b) of this section, his or her return to the ALR shall be determined by the renegotiation of the ISP with the resident or surrogate, the resident's healthcare provider, and the ALR. If, in renegotiating the ISP, the interested parties determine that the resident can no longer safely reside at the ALR, discharge planning shall take place in consultation with the resident or surrogate, the resident's healthcare provider, and the ALR. Under these circumstances the ALR shall waive the 30 day notice requirement.</p> <p>(d) Before a resident may be discharged on an involuntary basis, the ALR shall provide 30 days written notice to the resident and surrogate of the planned discharge, and make arrangements for the discharge in consultation with the resident, the surrogate, and the healthcare provider. Any involuntary discharge shall conform to the notice and</p>	<p>Positive</p>	<p>All -14</p>	<p>As we discussed, the District will continue to comply with D.C. Law 6-108, the transfer discharge law, which provides each resident due process.</p>	<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>
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		<p>process established in subchapter III of Chapter 10 of this title.</p> <p>(e) Although an ALR shall make every effort to avoid discharge, grounds for involuntary discharge may include the following:</p> <p>(1) Failure to pay all fees and costs as specified in the contract; and</p> <p>(2) Inability of the ALR to meet the care needs of the resident as provided in the ISP.</p> <p>(f) An involuntary discharge shall be canceled upon the occurrence of one of the following:</p> <p>(1) The payment of all monies owed at any time prior to discharge; or</p> <p>(2) The negotiation of a new ISP.</p>						
<p>I. if the setting is provider-owned or controlled and the tenant laws do not apply, the state ensures that the lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Assisted Living Residence</p>	<p>Discharge and transfer.</p> <p>§ 44-106.08.</p> <p>(a) When a resident wishes to be discharged from an ALR, the resident or surrogate shall give 30 day written notice to the ALR.</p> <p>(b) When a sudden, unexpected, and life-threatening medical emergency arises necessitating the immediate transfer of the resident to an acute care facility, the ALR shall immediately notify the surrogate and the resident's healthcare provider of the transfer. The ALR shall provide the surrogate and healthcare provider with information concerning cause of the transfer and the name and location of the acute care facility.</p> <p>(c) After a resident is transferred pursuant to subsection (b) of this section, his or her return to the ALR shall be determined by the renegotiation of the ISP with the resident or surrogate,</p>	<p>Positive</p>	<p>All -14</p>		<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>

		<p>the resident's healthcare provider, and the ALR. If, in renegotiating the ISP, the interested parties determine that the resident can no longer safely reside at the ALR, discharge planning shall take place in consultation with the resident or surrogate, the resident's healthcare provider, and the ALR. Under these circumstances the ALR shall waive the 30 day notice requirement.</p> <p>(d) Before a resident may be discharged on an involuntary basis, the ALR shall provide 30 day written notice to the resident and surrogate of the planned discharge, and make arrangements for the discharge in consultation with the resident, the surrogate, and the healthcare provider. Any involuntary discharge shall conform to the notice and process established in subchapter III of Chapter 10 of this title.</p> <p>(e) Although an ALR shall make every effort to avoid discharge, grounds for involuntary discharge may include the following: (1) Failure to pay all fees and costs as specified in the contract; and (2) Inability of the ALR to meet the care needs of the resident as provided in the ISP.</p> <p>(f) An involuntary discharge shall be canceled upon the occurrence of one of the following: (1) The payment of all monies owed at any time prior to discharge; or (2) The negotiation of a new ISP.</p>						
m. If provider-owned or controlled, the setting provides that each individual has privacy in their sleeping or living unit.	Assisted Living Residence	<p><u>Assisted Living Residences law requires that:</u></p> <p>Self- Determination, Choice, Independence, Participation , and Privacy § 44-105.02</p>	Positive	All -14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>A resident shall have the right to be treated at all times as follows:</p> <p>(1) Courteously; (2) Respectfully; (3) With full recognition of personal dignity and individuality; (4) With assurance of privacy and the opportunity to act autonomously and share in the responsibility for decisions</p>						
n. If provider-owned or controlled, the setting provides units with lockable entrance doors, with appropriate staff having keys to doors as needed	Assisted Living Residence	<p><u>Assisted Living Residences law does not specifically require this provision.</u> The current law states:</p> <p>§ 44-110.11 Special requirements for ALRs with 17 beds or more.</p> <p>(e) Living units or bedrooms may be locked at the discretion of the residents, except when the Resident’s assessment documents indicate otherwise.</p>	Silent	All -14	DOH will draft regulation to specifically include the language for this provision to apply to all ALRs.		FY18	ICFD surveyors monitor periodically and survey annually to ensure license compliance
o. If provider-owned or controlled, the setting provides individuals who are sharing units a choice of roommates.	Assisted Living Residences	<p>Dignity.</p> <p>§ 44-105.03.</p> <p>A resident shall have the right to the following:</p> <p>(7) To approve his or her roommate whenever possible, if the resident is living in a semi-private unit;</p>	Positive	All -14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance
p. If provider-owned or controlled, the setting provides individuals with the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Assisted Living Residences	<p><u>Assisted Living Residences law does not specifically require this provision;</u> however, the current law states:</p> <p>Self-determination, choice, independence, participation, and privacy.</p> <p>§ 44-105.02.</p> <p>(b) A resident of an ALR shall have the right to live in an environment that:</p>	Positive	All -14	DOH will draft regulation to specifically include the language of this provision.	DOH	FY18	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>(1) Maintains and enhances the resident's dignity, independence, and respect in full recognition of his or her individuality and physical and mental capabilities;</p> <p>§ 44-105.03. Dignity.</p> <p>A resident shall have the right to the following:</p> <p>(1) A safe, clean, comfortable, stimulating, and homelike environment allowing the resident to use personal belongings to the greatest extent possible;</p> <p>(2) Control time, space, and lifestyle;</p> <p>(3) Free access to visitors of his or her choice;</p> <p>(4) To receive and send correspondence without any restrictions;</p> <p>(5) To maintain personal possessions to the extent the health, safety, and well-being of others is not disturbed;</p>						
q. If provider-owned or controlled, the setting provides individuals with the freedom and support to control their schedules and activities and have access to food at any time.	Assisted Living Residences	<p><u>Assisted Living Residences law requires that</u></p> <p>Dignity.</p> <p>§ 44-105.03.</p> <p>A resident shall have the right to the following:</p> <p>(2) Control time, space, and lifestyle;</p>	Positive	All -14	DOH will draft regulation to specifically include the language regarding the access to food at any time.	DOH	FY18	ICFD surveyors monitor periodically and survey annually to ensure license compliance
r. If provider-owned or controlled, the setting allows individuals to have visitors at any time.	Assisted Living Residences	<p><u>Assisted Living Residences law requires that:</u></p> <p>Dignity.</p> <p>§ 44-105.03.</p>	Positive	All-14		DOH	Completed	ICFD surveyors monitor periodically and survey annually to ensure license compliance

		<p>A resident shall have the right to the following:</p> <p>(3) Free access to visitors of his or her choice;</p>						
<p>s. If provider-owned or controlled, the setting is physically accessible to the individual.</p>	<p>Assisted Living Residences</p>	<p>Philosophy of care §44-101.02.</p> <p>Philosophy of care.</p> <p>(a) The philosophy of assisted living emphasizes personal dignity, autonomy, independence, privacy, and freedom of choice. Further, the services and physical environment of an assisted living residence should enhance a person's ability to age in place in a homelike setting by increasing or decreasing the amount of assistance in accordance with the individual's changing needs.</p> <p>(b) This act shall be interpreted in accordance with the following philosophy of care:</p> <p>(1) An assisted living residence is a program which combines housing, health, and supportive services for the support of residents aging in place. The function of an assisted living residence is to provide or coordinate personalized assistance through activities of daily living, recreational activities, 24-hour supervision, and provision or coordination of health services and instrumental activities of daily living as needed.</p> <p>(2) The design of services and</p>	<p>Positive</p>	<p>All-14</p>	<p>Clarification It is unclear why the rules fail to meet the requirement stipulated by CMS.</p> <p>The documented rule provides evidence that ensure individuals are residing in a setting that is physically accessible supports their independence. Furthermore, the rule provides for the individual to age in place and mandates the provider to make accommodations when necessary to support aging in place. Finally, there is a provision to ensure the residence is wheelchair accessible.</p>	<p>DOH</p>	<p>Completed</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance</p>

		<p>environment should acknowledge that a significant number of residents may have some form of cognitive impairment. Services and environment should offer a balance between choice and safety in the least restrictive setting.</p> <p>(3) Both the program and environment should support resident dignity, privacy, independence, individuality, freedom of choice, decision making, spirituality, and involvement of family and friends.</p> <p>(4) Residents should be supported to age in place by minimizing the need to move through reasonable accommodation and, when necessary, through coordination and use of home health agencies, hospice, rehabilitation agencies, and other licensed healthcare providers.</p> <p>(5) Quality, affordable assisted living residence care should be accessible to all individuals residing in the District regardless of income.</p> <p>Accessibility An ALR that provides services for wheelchair-bound residents, shall insure that:</p> <p>(1) Doorways and hallways provide a clear opening of at least 32 inches; and (2) Thresholds exceeding 1/2 inch are modified to provide a 1:12 maximum slope</p>						
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